

[To accompany report No. 421.]

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 19, 1853.

Ordered to be printed.

AMENDMENT

Reported by the select committee, to whom were referred various memorials in regard to the means by which the human body is rendered insensible to pain under surgical operations, and intended to be proposed to the act (H. R. 336) "making appropriations for the support of the army for the year ending the thirtieth June, eighteen hundred and fifty-four."

Add the following :

And whereas a discovery has been made, and is now in practice, whereby the human body can be rendered safely insensible to pain in dental, surgical, and obstetrical operations, by the use of what are commonly called anæsthetic agents, and the government of the United States has been and is in the enjoyment of said discovery in the military and naval service; and whereas it is established that the discovery was made by some one of the persons, following, to wit: William T. G. Morton, Charles T. Jackson, each of Boston, and Horace Wells, of Hartford, deceased; but it does not appear to the satisfaction of Congress which of those parties was the original, true, and first discoverer thereof; and whereas Congress is willing to provide a recompense for such discovery when ascertained: Therefore—

- 1 SEC. —. *Be it further enacted*, That the sum of one
2 hundred thousand dollars be, and the same is hereby, appro-

3 priated, out of any money in the treasury not otherwise
4 appropriated, to be paid by the Secretary of the Treasury as
5 hereinafter provided, as a recompense for said discovery and
6 the use and benefit thereof by the government and people of
7 the United States.

1 SEC. —. *And be it further enacted*, That it shall be the
2 duty of the district attorney of the United States for the
3 northern district of New York, within a reasonable time after
4 the passage of this act, to file in the circuit court of the Uni-
5 ted States for said district, sitting in equity, a bill of inter-
6 pleader, wherein, reciting this act, or the substance thereof, the
7 Secretary of the Treasury, as trustee of the sum herein appro-
8 priated, shall be complainant, and the said William T. G.
9 Morton, Charles T. Jackson, and the personal representative
10 or representatives of said Horace Wells, shall be defendants ;
11 of which bill they, the said parties, shall take notice, and may
12 appear and answer and make proofs ; and the said circuit court
13 shall have jurisdiction of said case, and the same shall be tried
14 in the manner and according to the practice of such court in
15 equity cases ; and the issue therein shall be which one of the
16 said parties first named was, according to the principles of the
17 law of patents in the United States, the original, true, and first
18 discoverer of the discovery hereinbefore recited ; and, by final
19 decree in such case, the court shall decide that issue, and shall
20 direct that the said sum of one hundred thousand dollars,

21 without any costs, shall be paid over to the party who shall
22 be found to have been such discoverer, or to his personal
23 representative or representatives, or assignee: *Provided*,
24 That if one or more of said defendants shall conceive
25 himself or themselves to be aggrieved by said decree, he
26 or they may, within twenty days after the making of the de-
27 cree, appeal to the Supreme Court of the United States, and
28 thereupon the payment of said sum shall be suspended until
29 final disposition be made of said case by the said Supreme
30 Court: *And provided further*, That if it shall appear that
31 either of said defendants holds a patent for said discovery, or
32 the means of applying the same, which, in the judgment of
33 said circuit court, is valid, then it shall be the duty of said
34 court to certify such fact to the said Secretary, who shall
35 thereupon withhold from such defendant said sum, should the
36 same be decreed to him by the said final decree, until he
37 shall have executed, under his hand and seal, an instrument in
38 writing surrendering such patent, and granting the free use of
39 said discovery, and the means of using or applying the same,
40 to the government and people of the United States; which
41 instrument shall be lodged in the Patent Office, and entered
42 on the records thereof.